

*U.S. Serial No. 09/863,092
Amendment Under 37 C.F.R. 1.116
Attorney Docket 7590.24US01*

Remarks

Applicant has amended claims 1, 3, 11, 18 and 20-21. Claims 1-3, 6-11 and 13-22 are pending. Reconsideration of the claims is requested.

This amendment should be entered because the amendments and remarks made will render at least some of the claims allowable, or, the amendment will place the application in better form for appeal.

Rejection Under 35 U.S.C. §112

Claims 20 and 21 were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification. Applicant disagrees with this rejection and asks that it be withdrawn.

Claim 20 recites a scooter dimension of 12 inches. Support for this dimension can be found, for example, on page 4, line 8 of the specification as originally filed. Claim 21 recites a scooter dimension of 16 inches. Support for this dimension can be found, for example, on page 4, line 9 of the specification as originally filed. Claims 20 and 21 have been amended to verbatim quote the appropriate passages.

Claim 3 was rejected under 35 U.S.C. 112, second paragraph. Claim 3 has been amended to correct the drafting error. Withdrawal of the rejection is requested.

Rejection Under 35 U.S.C. §102

Claims 11, 16 and 17 were rejected under 35 U.S.C. §102(b) as anticipated by Wetzel, U.S. Patent No. 3,374,000. Applicant has amended independent claim 11 to better clarify the claimed invention.

Claim 11 has been amended to recite that the first and second scooters each comprise a base and a plurality of wheels rotatably attached to the base. Further, independent claim 11 has

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been amended to recite that the body of the toy sled includes first and second attachment mechanism receptacles for accepting the first and second attachment mechanisms, respectively. Claim 11 has also been amended to define that the first and second scooter engagement recesses are longitudinally aligned.

Wetzel discloses a toy sled having a platform with engagement recesses 12, 14, 24 for receiving a wheeled item. The wheeled item has a wheel attached to a base. See, for example, FIG. 14, where wheel 28 is attached to base 30 by ears 32, and the description at column 2, lines 42-49. There is no teaching or suggestion of having multiple wheels attached to the base, which is then attached to the sled platform. There is also no disclosure of having the wheels of Wetzel attached to the body by an attachment mechanism that engages an attachment mechanism receptacle. Wetzel merely uses a friction fit to attach the individual wheels to the sled platform. Still further, there is no disclosure of having the wheeled item engagement recesses longitudinally aligned; Wetzel has the three wheels positioned in a triangular manner.

At least for these reasons, Wetzel does not anticipate claims 11, 16 and 17, and withdrawal of this rejection is requested.

Rejections Under 35 U.S.C. §103

Claims 1, 3, 7-10, 14, 15, 18, 19 and 22 were rejected under 35 U.S.C. §103(a) as unpatentable over Wetzel, U.S. Patent No. 3,374,000. Claim 2 was rejected as unpatentable over Wetzel in view of Hoff, U.S. Patent No. 3,822,069. Claims 6 and 13 were rejected as unpatentable over Wetzel in view of Matheny, U.S. Patent No. 5,810,376. Applicant disagrees with each of these rejections.

The Examiner contends that it would have been obvious to one of ordinary skill in the art to provide a plurality of wheels in place of the single wheels of Wetzel in order to offer greater stability and support to the sled platform. Applicant disagrees with this logic because it contravenes the design of the Wetzel sled. As can be seen in FIG. 4 of Wetzel, the design utilizes three wheels positioned in a triangular setting. Such a three-point pattern provides solid

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contact with the ground and eliminates wobbling or other instability that would be present, for example, with a square pattern of four wheels. If additional wheels were added to the three-point pattern of Wetzel, the resulting sled would have a tendency to be less stable than the sled disclosed by Wetzel.

Independent claim 1, as amended, recites that the toy sled includes a body and a wheeled item attached to the body, the wheeled item having at least four wheels. As stated above, it would not have been obvious to one skilled in the art to take a stable, three-point configuration and modify it by adding additional wheels. Claim 1 is not obvious over Wetzel, and is patentable. Claims 2-3 and 6-10, which depend from claim 1, are also patentable, at least for the reasons claim 1 is patentable. The addition of Hoff or Matheny to Wetzel does not remedy the deficiencies in the teachings of Wetzel.

Claims 13, 14 and 15 are not obvious over Wetzel at least for the same reason that claim 11 is patentable over Wetzel. Claims 16 and 17 are also not obvious over Wetzel. As discussed above in regards to the anticipation rejection of claims 11, 16 and 17, Wetzel does not disclose or suggest at least three features: (1) attaching scooters having multiple wheels to the sled body; (2) having the scooters attached with an attachment mechanism that engages an attachment mechanism receptacle; and (3) having the scooter engagement recesses longitudinally aligned. Wetzel does not suggest these features, nor would it have been obvious to one skilled in the art to arrive at the sled recited by claim 11 from the teachings of Wetzel.

It would not have been obvious to one skilled in the art to have modified the vehicle disclosed by Wetzel as suggested by the Examiner, discussed above, in respect to the number of wheels. The issue of replacing a single wheel of Wetzel with a scooter having multiple wheels (such as four wheels) has been discussed above in relation to the rejection of claim 1. Wetzel attempted to provide a design that was stable with the few wheels provided. Regarding attaching the scooters with an attachment mechanism that engages an attachment mechanism receptacle, the second distinguishing feature, one would not have been led to such an arrangement from the mere friction fit attachment of Wetzel. Wetzel provides a design that has no extraneous features other than the individual wheels and the platform; whereas claim 11 recites the presence of the

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attachment mechanisms and also the attachment mechanism receptacles. The third distinguishing feature of claim 11 from Wetzel is the placement of the wheels of Wetzel, in the three-point pattern, which provide stability. It would contravene the teachings of Wetzel to align the wheels longitudinally, as would be the construction when the scooter engagement recesses are longitudinally aligned, as recited by pending claim 11.

The construction recited by pending claim 11 is not obvious in view of the disclosure of Wetzel. Indeed, the design claimed by claim 11, and dependent claims 13-17, goes against the teachings of Wetzel. The addition of Matheny to Wetzel does not remedy the deficiencies of the teachings of Wetzel.

Claim 18, and its dependent claims 19-22, recites a specific, detailed embodiment of a sled body. The Examiner states the claimed dimensions are merely an optimization of the sled's size that would have been ascertained by one of ordinary skill in the art through routine experimentation, and that the dimensions would have been obvious to one of ordinary skill in the art in order to appropriately size the sled for a particular user or a particular application. Applicant disagrees, for the dimensions of the sled body are specifically selected based on the features of the body of the claimed sled, and these dimensions are not merely optimization or experimentation based on the teachings of Wetzel. Applicant's particular application is different than Wetzel's.

For example, the recited thickness dimension in claim 18, about 3 inches, takes into account the presence of an engagement recess in the bottom surface of the sled body. The sled platform of Wetzel does not need a thickness capable of defining an engagement recess, because Wetzel attaches his individual wheels by having the wheel bases 30 slide into sockets 12, 14, 24. One skilled in the art would not have needed to design the sled platform of Wetzel to accept a recess, because there is no suggestion of having a recess; rather, Wetzel extends the platform outward by forming sockets 12, 14, 24.

Additionally, the length and width, about 53 inches and 23 inches, respectively, are sized so that the top surface of the sled body can accommodate a plurality of riders. Wetzel's solution for families (or multiple riders) is to configure multiple sleds as a train. There is no suggestion

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in Wetzel of placing multiple riders on the sled; the description in Wetzel discusses "a child" progressing from a baby seat to the sled to a train of sleds. One skilled in the art would not design a sled body to accept multiple riders from reading the disclosure of Wetzel. Wetzel, over and over, discusses "a child" and "the child" using the sled.

Still further, claim 18 has been amended to more clearly define that the engagement recess is adapted to receive at least one wheeled item having a diameter of 16 inches. With the recess having this dimension, the overall width of the sled body must be sufficient to accommodate the recess and have sufficient body structure on each side of the recess to maintain a strong sled. There is no suggestion in Wetzel to have a recess with such dimensions; rather, Wetzel does not even have a recess, but has sockets 12, 14, 24 extending away from the body base.

At least for these reasons, Applicant contends that the claims are not obvious over Wetzel and its combination with the other cited references and that the claims are patentable. Withdrawal of these rejections is requested.

SUMMARY


Applicants submit that the claims are in proper form for allowance and respectfully request reconsideration and allowance thereof. A Notice of Allowance is requested.

The Examiner is invited to contact the undersigned representative if it will facilitate prosecution of this application.

Respectfully Submitted,

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Date: 30 April 2003 By


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